

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
PATENTS COURT

Claim No: HC03C02460

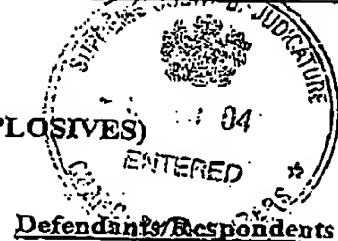
BEFORE MR JUSTICE LADDIE
THURSDAY 5TH FEBRUARY 2004
BETWEEN:

CINTEC INTERNATIONAL LIMITED

-and-

- (1) JOHN PARKES (trading as DELL EXPLOSIVES)
(2) MARTIN FROST

Claimant/Applicant



ORDER

PENAL NOTICE

IF YOU, JOHN PARKES OR MARTIN FROST, DO NOT OBEY THIS ORDER
YOU WILL BE IN CONTEMPT OF COURT AND MAY BE SENT TO PRISON,
FINED OR HAVE YOUR ASSETS SEIZED.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES
ANYTHING WHICH HELPS OR PERMITS THE FIRST DEFENDANT TO
BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD TO BE IN
CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE
THEIR ASSETS SEIZED.

Respondents' Addresses

John Parkes: Redhall Mill, Collington Dell, Edinburgh EH14 1JF.

Martin Frost: Edenside, Kelso, TD5 7BS.

THIS ORDER

1. This is a Freezing Injunction made against John Parkes and Martin Frost ('the Respondents') on 5th February 2004 by Mr Justice Laddie on the application of Cintec International Limited ('the Applicant'). The Judge read the Witness Statement listed in Schedule A and accepted the undertakings set out in Schedule B at the end of the Order.
2. This order was made at a hearing without notice to the Respondent. The Respondent has a right to apply to the court to vary or discharge the order – see paragraph 13 below.
3. There will be a further hearing in respect of this order on 19th February 2004 ('the return date').
4. In this order–
 - (a) unless otherwise stated, references to 'the Respondent' mean both or all of them; and
 - (b) this order is effective against any Respondent on whom it is served or who is given notice of it.

FREEZING INJUNCTION

5. Subject to paragraphs set out below, until the return date or further order of the court, the Respondent must not–
 - (a) remove from England and Wales any of his assets which are in England and Wales up to the value of £185,000; or
 - (b) in any way dispose of, deal with or diminish the value of any of his assets whether they are in or outside England and Wales up to the same value.
6. Paragraph 5 applies to all the Respondent's assets whether or not they are in his own name and whether they are solely or jointly owned. For the purpose of this order the Respondent's assets include any asset which he has the power, directly or indirectly, to dispose of or deal with as if it were his own. The Respondent is to be regarded as having such power if a third party holds or controls the asset in accordance with his direct or indirect instructions.
7. This prohibition includes the following assets in particular–

- (a) the property known as Redhall Mill, Collington Dell, Edinburgh EH14 1JF or the net sale money after payment of any mortgages if it has been sold;
 - (b) all UK, US and other patents held in the name of the First Respondent (in some at least of which the Second Respondent claims to have a 25% beneficial interest), and the proceeds of any sale of those patents or any interest in them; and
 - (c) the Second Defendant's painting "Seascape" by John Parkes Bonnington or such of the proceeds as the Second Defendant is entitled to if it has been sold.
8. (1) If the total value free of charges or other securities ('unencumbered value') of the Respondent's assets in England and Wales exceeds £185,000, the Respondent may remove any of those assets from England and Wales or may dispose of or deal with them so long as the total unencumbered value of the Respondent's assets still in England and Wales remains above £185,000.
- (2) If the total unencumbered value of the Respondent's assets in England and Wales does not exceed £185,000, the Respondent must not remove any of those assets from England and Wales and must not dispose of or deal with any of them. If the Respondent has other assets outside England and Wales, he, may dispose of or deal with those assets outside England and Wales so long as the total unencumbered value of all his assets whether in or outside England and Wales remains above £185,000.
9. Notwithstanding paragraph 8 above, the Respondents may only dispose of any interests they hold in the patents held in the name of the First Respondent (referred to in paragraph 7(b) above) if they provide the £150,000 stipulated in paragraph 9(v) of the Final Order of Mr Justice Laddie dated 16 October 2003.

PROVISION OF INFORMATION

10. (1) Unless paragraph (2) applies:
- (a) the First Respondent shall forthwith inform the Applicant's solicitors of the location of the deeds to Redhall Mill, Collington Dell, Edinburgh EH14 1JF;
 - (b) the Second Respondent must forthwith inform the Applicant's solicitors of the precise current location of the painting 'Seascape' by Richard Parkes Bonnington; and
 - (c) the Respondent must within 48 hours of service of this order and to the best of his ability inform the Applicant's solicitors of all his other assets worldwide whether in his own name or not and whether solely

or jointly owned, giving the value, location and details of all such assets.

- (2) If the provision of any of this information is likely to incriminate the Respondent, he may be entitled to refuse to provide it, but is recommended to take legal advice before refusing to provide the information. Wrongful refusal to provide the information is contempt of court and may render the Respondent liable to be imprisoned, fined or have his assets seized.
11. Within 5 working days after being served with this order, the Respondent must swear and serve on the Applicant's solicitors an affidavit setting out the above information.

EXCEPTIONS TO THIS ORDER

12. (1) This order does not prohibit the Respondent from spending £300 a week towards his ordinary living expenses and also a reasonable sum on legal advice and representation. But before spending any money the Respondent must tell the Applicant's legal representatives where the money is to come from.
- (2) The Respondent may agree with the Applicant's legal representatives that the above spending limits should be increased or that this order should be varied in any other respect, but any agreement must be in writing.
- (3) The order will cease to have effect if the Respondent-
- (a) provides security by paying the sum of £90,000 to the Applicant and £95,000 into court, to be held to the order of the court; or
 - (b) makes provision for security in the sum of £185,000 by another method agreed with the Applicant's legal representatives.

COSTS

13. The costs of this application are reserved to the judge hearing the application on the return date.

VARIATION OR DISCHARGE OF THIS ORDER

14. Anyone served with or notified of this order may apply to the court at any time to vary or discharge this order (or so much of it as affects that person), but they must first inform the Applicant's solicitors. If any evidence is to be relied upon in support of the application, the substance of it must be communicated in writing to the Applicant's solicitors at their Cheltenham office in advance.

INTERPRETATION OF THIS ORDER

15. A Respondent who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.
16. A Respondent which is not an individual which is ordered not to do something must not do it itself or by its directors, officers, partners, employees or agents or in any other way.

PARTIES OTHER THAN THE APPLICANT AND RESPONDENT

17. **Effect of this order**
- It is a contempt of court for any person notified of this order knowingly to assist in or permit a breach of this order. Any person doing so may be imprisoned, fined or have their assets seized.
18. **Set off by banks**
- This injunction does not prevent any bank from exercising any right of set off it may have in respect of any facility which it gave to the respondent before it was notified of this order.
19. **Withdrawals by the Respondent**
- No bank need enquire as to the application or proposed application of any money withdrawn by the Respondent if the withdrawal appears to be permitted by this order.
20. **Persons outside England and Wales**
- (1) Except as provided in paragraph (2) below, the terms of this order do not affect or concern anyone outside the jurisdiction of this court.
- (2) The terms of this order will affect the following persons in a country or state outside the jurisdiction of this court –
- (a) the Respondent or his officer or agent appointed by power of attorney;
- (b) any person who-
- (i) is subject to the jurisdiction of this court;
- (ii) has been given written notice of this order at his residence or place of business within the jurisdiction of this court; and
- (iii) is able to prevent acts or omissions outside the jurisdiction of this court which constitute or assist in a breach of the terms of this order; and
- (c) any other person, only to the extent that this order is declared enforceable by or is enforced by a court in that country or state.
21. **Assets located outside England and Wales**

Nothing in this order shall, in respect of assets located outside England and Wales, prevent any third party from complying with-

- (1) what it reasonably believes to be its obligations, contractual or otherwise, under the laws and obligations of the country or state in which those assets are situated or under the proper law of any contract between itself and the Respondent; and
- (2) any orders of the courts of that country or state, provided that reasonable notice of any application for such an order is given to the Applicant's solicitors.

COMMUNICATIONS WITH THE COURT

All communications to the court about this order should be sent to-
Room TM 505, Royal Courts of Justice, Strand, London WC2A 2LL quoting the case number. The telephone number is 0207 947 6754.
The offices are open between 10 a.m. and 4.30 p.m. Monday to Friday.

SCHEDULE A

WITNESS STATEMENTS

The Applicant relied on the witness statement of Philip J Radford dated 4 February 2004, filed on behalf of the Applicant, which will be sworn as an affidavit as soon as practicable.

SCHEDULE B

UNDERTAKINGS GIVEN TO THE COURT BY THE APPLICANT

- (1) If the court later finds that this order has caused loss to the Respondent, and decides that the Respondent should be compensated for that loss, the Applicant will comply with any order the court may make.
- (2) The Applicant will serve upon the Respondent as soon as practicable-
 - (i) copies of the witness statements and exhibits containing the evidence relied upon by the Applicant, and any other documents provided to the court on the making of the application; and
 - (ii) an application notice for continuation of the order.
- (3) Anyone notified of this order will be given a copy of it by the Applicant's legal representatives.
- (4) The Applicant will pay the reasonable costs of anyone other than the Respondent which have been incurred as a result of this order including the

costs of finding out whether that person holds any of the Respondent's assets and if the court later finds that this order has caused such person loss, and decides that such person should be compensated for that loss, the Applicant will comply with any order the court may make.

- (5) If this order ceases to have effect (for example, if the Respondent provides security or the Applicant does not provide a bank guarantee as provided for above) the Applicant will immediately take all reasonable steps to inform in writing anyone to whom he has given notice of this order, or who he has reasonable grounds for supposing may act upon this order, that it has ceased to have effect.
- (6) The Applicant will not without the permission of the court use any information obtained as a result of this order for the purpose of any civil or criminal proceedings, either in England and Wales or in any other jurisdiction, other than this claim.

NAME AND ADDRESS OF APPLICANT'S LEGAL REPRESENTATIVES

The Applicant's legal representatives are:

BPE Solicitors
St James's House
St James Square
Cheltenham
GL50 3PR
Tel: 01242 224433
Fax: 01242 519797

Claim No: HC03C02460

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CHANCERY DIVISION

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Claimant/Applicant

-and-

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EXPLOSIVES)

(2) MARTIN FROST

Defendants/Respondents

ORDER

BPE Solicitors
St James's House
St James' Square
Cheltenham
GL50 3PR
Tel: 01242 224433
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Ref:
Solicitors to the Claimant

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